



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/412,792	10/05/1999	JAY H. CONNELLY	10559/055001	1113

20985 7590 11/06/2002

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO, CA 92122

EXAMINER

DEMICCO, MATTHEW R

ART UNIT PAPER NUMBER

2697

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/412,792

Applicant(s)

CONNELLY, JAY H.

Examiner

Matthew R Demicco

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on 06 January 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The corrected or substitute drawings were received on Jan 6, 2000. It appears that the only correction is the change from "21" to --21'--. Applicant is requested to confirm that this is the only change being made. ✓

Specification

2. The use of the trademarks ABC, NBC, CBS, and Disney have been noted in this application. They should be capitalized wherever they appears and be accompanied by the generic terminology. ✓

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 3-5, 7, 9-21, and 26-30 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,172,677 to Stautner et al.

Regarding claim 1, Stautner discloses a system whereby scheduling information (Col. 4, Lines 14-18) and audio/video data are transmitted to a receiver that can identify and execute an application capable of processing the data (Col 3, Lines 40-56 and Col 5, Lines 44-46). The viewer application, as stated by Stautner, may be a web page, chat session, or a game, for example. Figure 1 clearly demonstrates the scheduling of content at given times for specific durations, and the data is retrieved and stored or executed at the specified time (Col 4, Lines 9-28).

Regarding claims 3-5, Stautner discloses a system by which the content provider of the information is identified (See Figure 5). As demonstrated in Figure 2, this system identifies the channel that data will be broadcast and received on. Data is retrieved and stored or executed at the specified time as stated above. The system of Stautner identifies many different channels of communication, including wireless, cable, and satellite transmissions (Col 1, Lines 51-57).

Regarding claim 7, Stautner discloses a system by which a locally stored database of broadcast information is updated frequently (Col 4, Lines 9-14). As shown in Figure 1,

once the information is received, it is presented to the user who may select a channel to view, and the content specified will start at the predetermined time as shown.

Regarding claim 9, Stautner discloses a system in which multiple channels of information are presented to the user as shown in Figure 2. Multiple sources of data corresponding to multiple viewer applications at different times are shown.

Regarding claims 10-13, Stautner discloses a system whereby scheduling information (Col. 4, Lines 14-18) and audio/video data are transmitted to a receiver that can identify and execute an application that processes the data (Col 3, Lines 40-56 and Col 5, Lines 44-46). The viewer application, as stated by Stautner, may be a web page, chat session, or a game, for example. Figure 1 clearly demonstrates the scheduling of content at given times for specific durations, and the data is retrieved and stored or executed at the specified time (Col 4, Lines 9-28). Additionally, Figure 1 identifies the channel that data will be broadcast on. The system of Stautner identifies the content provider of the information (See Figure 5).

Regarding claims 14 and 15, Stautner discloses a system of processing data whereby scheduling information containing broadcast times (Col. 4, Lines 14-18) and audio/video data are transmitted to a receiver that can identify and execute an application that processes the data (Col 3, Lines 40-56 and Col 5, Lines 44-46). The scheduling data is stored in a local database table which has entries indexed by broadcast times and channels as demonstrated by Figure 1. Based on the information in this scheduling table, specific viewer applications such as chat sessions or web pages may be selected as shown in Figure 2.

Regarding claim 16, Stautner discloses a system of processing data whereby scheduling information containing broadcast times (Col. 4, Lines 14-18) and audio/video data are transmitted to a receiver that can identify and execute an application that processes the data (Col 3, Lines 40-56 and Col 5, Lines 44-46). The scheduling data is stored in a local database table which has entries indexed by broadcast times and channels as demonstrated by Figure 1. Based on the information in this scheduling table, specific viewer applications such as chat sessions or web pages may be selected and executed as shown in Figure 2.

Regarding claim 17, Stautner discloses a system (See Figure 2) in which an electronic program guide database is equivalent to the claimed "scheduling table" in that the database contains not only scheduling times and channels but also the associations of the icons and the specific applications to which they are associated. Therefore, when a user clicks on an icon (See Figure 2, Element 60), the system must query the "scheduling table" (database) to find which particular application to launch.

Regarding claims 18-19, Stautner discloses a system for receiving data broadcasts with an interface as shown in Figure 2. The system of Stautner may contain a data storage device on which viewer applications may reside (Col. 5, Lines 44-46). The device also contains a processor that is used to execute the specified viewer application (Col 1, Lines 36-51). The system of Stautner is based on a personal computer (Col. 1, Lines 36-41), which is understood in the art to execute a code-base (operating system) from a local storage device.

Regarding claims 20-21, Stautner discloses a content guide, the underlying control program (operating system), which is a software application (Col. 3, Lines 40-50). The storage device above stores the underlying control application for receiving new scheduling information as well as updates to the database and viewer applications (Col. 4, Lines 9-14). It is well known in the art that the underlying control application, or operating system, is responsible for handling all spawned child processes. Therefore, the interface of Stautner running on a personal computer is the operating system or parent process, and this operating system forks off helper applications to decode data based on information from the scheduling table as indicated above. In a personal computer, such as the one stated above, the operating system maintains a table of all available viewer applications, often referred to as coder/decoders (CODECs). Therefore, in the system of Stautner (See Figure 2), when a user clicks on an icon, the control application must query a table of viewer applications in order to select and execute the proper viewer.

Regarding claim 26 and 28, Stautner discloses a device that stores and executes instructions (Col. 5, Lines 43-46). One function of the code the computer executes is that of a user interface that receives scheduling information for various content formats including video, audio, games, and applications (See Figure 2), and broadcast data at the scheduled time. The received data is processed with a specific viewer application once it is received and displayed to the user (Cols. 3-4, Lines 40-8). The viewer application can decode the received data from a plurality of sources and data types (Col. 1, Lines 45-51).

Regarding claim 27, Stautner discloses a device that receives scheduling information that identifies the channels on which data will be broadcast (See Figure 1).

Regarding claim 29, Stautner discloses a device that that executes code on a computer to retrieve and display scheduling information as shown in Figure 1. This information may be stored in a database table on a local storage device (Col. 4, Lines 9-12). Entries are indexed by broadcast times as shown in Figure 1.). The interface, running on a personal computer is the operating system that executes helper applications to decode data based on information from the scheduling table as indicated above. In a personal computer, such as the one stated above, the operating system maintains a table of all available viewer applications, or CODECs. Therefore, in the system of Stautner (See Figure 2), when a user clicks on an icon, the control application must query a table of viewer applications in order to select and execute the proper viewing application.

Regarding claim 30, Stautner discloses a device that selects a viewer application from a table as shown above. This table lists viewer applications supported by the system.

5. Claims 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,659,350 to Hendricks et al.

Regarding claim 22, Hendricks discloses a computer with data storage (See Figure 4) that can gather a variety of program signals for broadcasting and encode them efficiently for available bandwidth (Col. 3, Lines 31-42). This computer executes code that sends information to a receiver that includes the scheduled time (See Figure 21) and content format (See Figure 18) of the data broadcast, and additionally broadcasts the data (See Figure 1). The receiver has a plurality of inputs (Col. 10, Lines 43-45) and one or more viewer applications (Col. 14, Lines 62-65).

Regarding claim 23, the system of Hendricks can deliver to the receiving unit the content provider (See Figure 17), a viewer age and scheduled broadcast channel (See Figure 16).

Regarding claim 24, the system of Hendricks runs software instructions that facilitate the broadcasting of data to the receiving terminal (Col. 6, Lines 11-19) at a scheduled time as shown above.

Regarding claim 25, the system of Hendricks broadcasts information about multiple scheduled times and content formats simultaneously as illustrated by Figure 6b. Additionally, the receiving terminal is equipped to handle multiple broadcasts of viewer data simultaneously using multiple decompression applications (Col. 11, Lines 40-46) when sent by the broadcasting system.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stautner et al. in view of U.S. Patent No. 6,418,169 to Datari. As stated above, Stautner discloses a method of broadcasting and receiving data and an associated schedule for the data. Stautner does not, however, disclose the use of a content format contained in the scheduling information or the use of this content format data in decoding the data. Datari discloses a system in which video data is

Art Unit: 2611

broadcast to a receiving unit in which header and payload information and attributes associated with the content are transmitted (Col. 1, Lines 40-46). Datari is evidence that ordinary workers in the art would recognize the benefit of transmitting content header and payload data to the receiver in a video transmission system. Therefore, it would have been obvious to one having ordinary skill in the art to combine the transmission and receiving system of Stautner with the header and payload information of Datari in order to analyze the data and select an appropriate viewer application to read and decode it.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stautner et al. in view of Datari and further in view of the Advanced Television Enhancement Forum Specification (ATVEF). As stated above, Stautner in view of Datari discloses a method of broadcasting and receiving scheduling data and video using header and payload information. Stautner in view of Datari does not, however, disclose the use of the ATVEF format for transmitting data. The Advanced Television Enhancement Forum Specification (ATVEF) outlines the implementation and use of the ATVEF format for distributing video content in conjunction with other multimedia-rich hypertext data. The ATVEF Specification is evidence that ordinary workers in the art would recognize the benefit of utilizing the ATVEF format to transport and display real-time video content in conjunction with other hypertext multimedia. Therefore, it would have been obvious to ordinary workers in the art to combine the user interactive video transmission and receiving system of Stautner in view of Datari with the ATVEF format of the ATVEF Specification in order to facilitate transporting and embedding video within a hypertext linked multimedia display and vice versa to insure compatibility with a wide range of devices using a well known standard (ATVEF).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,177,931 to Alexander et al. discloses an electronic program guide with increased functionality including scheduling, advertising, and Internet/E-Mail access.

U.S. Patent No. 6,321,382 to Wugofski discloses a computer/television convergence system with electronic program guide functionality and multiple source capability.

U.S. Patent No. 5,675,390 to Schindler et al. discloses a computer/television convergence system with multiple source capability, decompression and display of data, and local database usage.

U.S. Patent No. 5,861,881 to Freeman et al. discloses an interactive computer system with interactive programming, multiple video transmission capability, and embedded authoring commands to integrate various multimedia elements.

U.S. Patent No. 5,850,218 to LaJoie et al. discloses a full service cable television system with electronic program guide and multiple source capability.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155. The examiner can normally be reached on Mon-Fri, 9am - 5pm.

Art Unit: 2611

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-5359 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

mrd
October 22, 2002


ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600